LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 6660
BILL NUMBER: SB 333

DATE PREPARED: Apr 16, 2001
BILL AMENDED: Apr 12, 2001

SUBJECT: Tax Credits.

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FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *IDFA Loans/Loan Guaranties:* The bill authorizes the Indiana Development Finance Authority (IDFA) to make loans and loan guaranties and to issue bonds for certain industrial development projects. The bill also authorizes the Board for Depositories to buy bonds issued by IDFA for certain purposes or to make loans or loan guaranties to IDFA under certain conditions.

Capital Investment Tax Credit: The bill provides a credit against a taxpayer's state tax liability for certain qualified capital investments made in Shelby County. The bill also provides that the amount of the credit is equal to 14% of the amount of the qualified investment. The bill further requires the Department of Commerce to certify the investments as being eligible for the credit. It also provides that if a taxpayer receives a credit and does not make the qualified investment for which the credit was granted within the time required, the Department of Commerce may require the taxpayer to repay the additional amount of state tax liability that would have been paid by the taxpayer if the credit had not been granted, plus interest.

Oil Rerefining Facility Tax Credit: This bill provides a five-year credit against state tax liability for a percentage of property taxes paid by rerefined lubrication oil facilities. It requires the Department of Commerce to determine if the taxpayer is entitled to the credit.

Effective Date: (Amended) Upon Passage; January 1, 2001 (retroactive).

Explanation of State Expenditures: (Revised) *IDFA Loans/Loan Guaranties:* The bill would allow up to $35 M from the Public Deposit Insurance Fund (PDIF) to be used by the Indiana Development Finance Authority (IDFA) to provide loans and loan guaranties for industrial development projects by businesses located in Indiana and by an out-of-state business affecting a "leading" Indiana business. A "leading" Indiana business is defined as a business that: (1) is headquartered in a county having a population between 60,000 and 64,000; is a Fortune 500 company as of April 16, 2001; (3) pays wages at a level at least 200% of the county average wage; and (4) is a global business participating in international markets. The bill also authorizes the IDFA to use up to $2 M from the Industrial Development Guaranty Fund to fund a joint loan guaranty with the Board for Depositories for the same purposes. The maximum term of a loan or loan guaranty is 10 years. In addition, the bill requires that the interest rate on loans be at least sufficient to cover all costs and expenses to the IDFA in making the loan.

Only one company is expected to meet the criteria specified in the bill for loans or loan guaranties to an out-of-state company affecting a “leading” Indiana business. However, the bill also authorizes IDFA to make loans and loan guaranties from the same sources to businesses located in Indiana. Since this would be done at the discretion of the IDFA, the impact of the bill relative to Indiana businesses is unknown. It is also important to note that the provision requiring the loan interest to at least cover the cost and expenses of making the loan appears to require that the state incur no cost from the loan program.

At the end of FY 2000, the assets of the PDIF totaled $299,998,396. For FY 2000, expenses of the Fund amounted to $335,708.

Background on the PDIF: The PDIF was created in 1937 to insure the deposits of public monies in Indiana's banks, much the same way the FDIC (Federal Deposit Insurance Company) insures depositor's monies. PDIF funds are managed by the State Treasurer. The State Treasurer is Secretary-Manager for the Board of Public Depositories. The purpose of the Board of Public Depositories is to insure the safekeeping and prompt payment of all public funds deposited in any approved depository through the management of the PDIF.

The PDIF is funded by assessments payable by every depository that has public funds. The Board may waive this assessment if, in its discretion, it determines that the assets of the fund are equal to the reserve for losses. At the present time, the Board has waived the assessment. The Board has the authority to invest, reinvest, and exchange investments of the PDIF in excess of the cash balance in certain securities set out in IC 5-13-12.

Capital Investment Tax Credit: This bill creates the Capital Investment Tax Credit and would require the Indiana Department of Commerce (IDOC) to adopt rules and review notices submitted by companies intending to claim this credit. The IDOC would then inform the Department of State Revenue (DOR) whether or not the company is entitled to the credit. Presently, only one company is expected to qualify for the tax credit. Thus, any expenses related to this review process should be minimal and can be absorbed by the IDOC. According to State Department of Personnel information, the Lieutenant Governor’s Office had 35 vacant full-time positions as of December 2000.

The DOR would have to adopt rules and develop new forms for the reporting of this new credit. but would be able to absorb any related expenses of processing, printing, and programming within its current budget.

Oil Rerefining Facility Tax Credit: The bill creates a tax credit for oil rerefining facilities. The bill requires a taxpayer to request the Department of Commerce to determine if the taxpayer is entitled to the credit. The taxpayer must make this request in the manner and on forms prescribed by the Department. Presently, only one company is expected to qualify for the tax credit. Thus, any expenses related to this review process should be minimal and can be absorbed by the IDOC.

Explanation of State Revenues: (Revised) The bill could reduce state revenue by $3.75 M to $4.5 M in FY 2002 and by $3.38 M to $3.75 M in FY 2003.

Capital Investment Tax Credit: The Capital Investment Tax Credit could reduce state tax revenues by as much as $3 M each year beginning in FY 2002. This bill creates a credit for companies making certain qualified investments in Shelby County provided that the average wage paid to employees exceeds the average wage in that county. Qualified investments would include the purchase of new manufacturing equipment, on-site infrastructure improvements, and other expenditures outlined in the bill. The credit would be equal to 14% of the qualified investment made in a taxable year. The total credit would not be taken at once, but would be divided equally over seven years, beginning in the year in which it is granted. Currently, only one company is expected to qualify for the tax credit. The qualified investment by this company is expected to be $150 M. Therefore, the company would be entitled to a total tax credit of $21 M with an annual impact of $3 M for seven years (excluding any amounts carried forward). This could be reduced by the "clawback" provision of the bill, if qualifying company fails to make the qualified investment within five years and the DOR seeks repayment of the tax credit.

This credit could be taken against a taxpayer's liability under the Gross Income Tax, the Adjusted Gross Income Tax, the Supplemental Net Income Tax, the Bank Tax, the Savings and Loan Association Tax, the Insurance Premium Tax, and the Financial Institutions Tax. Revenue from these taxes is deposited in the General Fund and the Property Tax Replacement Fund. If a pass-through entity without state tax liability is entitled to a credit, a shareholder, partner, or a member of the entity may receive a credit equal to the amount determined for the entity multiplied by that person's share of distributive income.

If the credit exceeds a taxpayer's liability in a single year, the excess may be carried forward for up to three consecutive years. No carrybacks or refunds would be allowed. As this credit is retroactive to January 1, 2001, the first year of state impact would be FY 2002.

The bill requires that items for which the tax credit was granted must be fully installed or completed within 5 years of the date on which the IDOC informs the DOR that the taxpayer is entitled to the tax credit. If not, the "clawback" provision in the bill provides that the DOR may require the taxpayer to repay the amount of tax liability offset by the tax credit, plus interest.

Oil Rerefining Facility Tax Credit: The tax credit could reduce revenue between $750,000 to $1.5 M in FY 2002 and between $375,000 to $750,000 in FY 2003. A taxpayer that owns a facility that processes rerefined lubrication oil would be entitled to a non-refundable credit against the taxpayer's state tax liability. The credit amount awarded would be a percentage of property tax paid by the taxpayer on (1) real property on which a facility that processes rerefined lubrication oil is located and (2) personal property used in the processing of rerefined oil to and from the processing facility. The credit allowed is a set percentage which would decline annually over the life of the credit. The following table defines the percentages.

Calendar Year	**Credit Percentage**
2001	100%
2002	80%
2003	60%
2004	40%
2005	20%

Unused credit can be carried forward for a period not to exceed two years. Therefore, all unused credit would have to be used by December 31, 2007.

Currently, at least one taxpayer would qualify for the credit. The property taxes paid by this taxpayer are estimated at $1 M in CY 2001 and $1 M in CY 2002. The taxpayer has experienced a significant increase in property taxes due to the phase-out of the Resource Recovery Property Tax Credit.

Due to the effective date of this credit and potential impact on tax liability, a taxpayer could adjust their quarterly payments in anticipation of the credit. The potential impact in FY 2002 could include the full tax credit for tax year 2001 along with the first two quarterly payments of tax year 2002 adjusted for the anticipated 2002 tax credit. Depending on the income tax liability of the taxpayer, the proposed credit could reduce revenue between $750,000 to $1.5 M in FY 2002 and between $375,000 to $750,000 in FY 2003. It is unknown if the eligible taxpayer would be able to use the entire credit for a given year. The credit is not refundable and may only be carried forward for two years.

The estimated Oil Rerefining Tax Credit could also be effected by reassessment that will occur in CY 2003 since the taxpayers assessed valuation could change.

It is possible that additional unknown taxpayers either currently qualify for this tax credit or will be able to qualify in future years, therefore creating an indeterminable impact on future tax collections.

The credit may be applied to corporate gross, state gross retail and use tax, adjusted gross income tax, supplemental corporate net income tax, bank tax, savings and loan association tax, financial institutions tax, and the insurance premiums tax. These taxes are deposited in the General Fund and the Property Tax Replacement Fund.

A taxpayer must request the Department of Commerce to determine the taxpayer's entitlement to the credit in the manner and on forms prescribed by the Department.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Department of Commerce, Department of State Revenue.

Local Agencies Affected:

Information Sources: Indiana State Board of Tax Commissioners.